

James Jenkins, former President of the Utah State Bar, wrote, "Ted's reputation for good character and industry and his temperament of fairness, objectivity, courtesy, and patience [are] without blemish."

Utah State Senator, Mike Dmitrich, one of many Democrats supporting this nomination, wrote, "[Mr. Stewart] has always been fair and deliberate and shown the moderation and thoughtfulness that the judiciary requires."

I understand that the American Bar Association has concluded that Ted Stewart meets the qualifications for appointment to the federal district court. This sentiment is strongly shared by many in Utah, including the recent president of the Utah State Bar. For these reasons, Mr. Stewart was approved for confirmation to the bench by an overwhelming majority vote of the Judiciary Committee.

To those who contend Mr. Stewart has taken so-called anti-environmental positions, I say: look more carefully at his record. Mr. Stewart was the director of Utah's Department of Natural Resources for 5 years, and the fact is that his whole record has earned the respect and support of many local environmental groups.

Indeed, for his actions in protecting reserve water rights in Zion National Park, Mr. Stewart was enthusiastically praised by this administration's Secretary of the Interior.

Consider the encomiums from the following persons hailing from Utah's environmental community:

R.G. Valentine, of the Utah Wetlands Foundation, wrote, "Mr. Stewart's judgment and judicial evaluation of any project or issue has been one of unbiased and balanced results."

Don Peay, of the conservation group sportsmen for Fish and Wildlife, wrote, "I have nothing but respect for a man who is honest, fair, considerate, and extremely capable."

Indeed, far from criticism, Mr. Stewart deserves praise for his major accomplishments in protecting the environment.

Ultimately, the legion of letters and testaments in support of Mr. Stewart's nomination reflects the balanced and fair judgment that he has exhibited over his long and distinguished career. Those who know Ted Stewart know he will continue to serve the public well.

On a final note, Ted Stewart is needed in Utah. The seat he will be taking has been vacant since 1997. So I am deeply gratified that the Senate is now considering Mr. Stewart for confirmation.

I am grateful to my colleagues on both sides of the aisle who helped get this up and resolve what really was a very serious and I think dangerous problem for the Senate as a whole and for the judiciary in particular.

I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Chair recog-

nizes the Senator from Iowa for up to 10 minutes.

#### AIR TRANSPORTATION IMPROVEMENT ACT—Continued

Mr. HARKIN. I thank the President for this time and his indulgence while I take my 10 minutes when I know we are supposed to be recessing for our luncheon caucuses. I appreciate the indulgence of the Senator from Wyoming.

I want to take a few minutes to talk about the managers' amendment, the slot amendment that provides for a two-step process for the elimination of airline slots for landing and takeoff rights at O'Hare, Kennedy, and LaGuardia Airports.

Senator GRASSLEY and I have been working on this for quite awhile together. I am pleased we have been able to work closely with Chairman MCCAIN, with Senator ROCKEFELLER, Senator GORTON, and others on the development of this proposal.

It is an important step toward eliminating a major barrier to airline competition. Not only must we eliminate the barrier, but we have to do it in a way that mitigates against the long-term effects of a Government-imposed slot rule. Under the current rules, most smaller airlines have, in effect, a far more difficult time competing, in part, because of the slot rule.

In the first phase of the proposal, in the managers' amendment, small airlines will be allowed immediate expanded access to the airports. Again, this will help stimulate increased competition and lower ticket prices. Turbo-prop and regional jet aircraft will also be allowed immediate slot exemptions when they serve smaller markets. This will increase airline service available to smaller cities, especially cities west of the Mississippi, such as the Presiding Officer's cities in Wyoming, or Nebraska or the Dakotas or Iowa, or places such as that.

The two-step mechanism in the bill has the support of 30 attorneys general, the Business Travel Coalition, and the Air Carrier Association of America which represents many of the smaller airlines.

After that first phase, in the final step—after a number of years when the new competitive airlines might get a chance to establish a foothold and smaller cities would have established better service—the slot rules will be ended at O'Hare, Kennedy, and LaGuardia Airports.

Again, I commend Chairman MCCAIN for working so closely with us on this issue. Chairman MCCAIN had a field hearing in Des Moines on April 30 of this year to hear firsthand how the current system affects small- and medium-sized cities. Senator MCCAIN has worked hard to move forward a proposal which I believe will significantly increase competition.

I also thank Senator GORTON, and my colleague, Senator ROCKEFELLER from West Virginia, for their considerable efforts. These Senators have shown a keen interest in the problems unique to smaller cities and rural areas where adequate service is a paramount issue.

The provision has a number of items that address the noise implications of eliminating the slot rule near the three airports. I believe this final language is an excellent compromise. I am pleased that the structure of our original proposal is largely intact. I was also pleased that the House moved in June to eliminate the slot rule at these airports. I think the Senate provision improves on that.

Access to affordable air service is essential to efficient commerce and economic development in States with a lot of small communities. Again, Americans have a right to expect this. Airports are paid for by the traveling public through taxes and fees charged by the Federal Government and local airport authorities. Unfortunately, when deregulation came through in 1978, there was no framework put in place to deal with anticompetitive practices. A lot of these outrageous practices have become business as usual.

What happened? We went through deregulation in 1978; and then in 1986 the DOT gave the right to land and take off under these slots to those that used them as of January 21, 1986. So what happened was, when the Secretary of DOT, in 1986 said, here, airlines, these are your slots, it locked them into those airports, and it effectively locked out competition in the future. It was, in fact, a give-away. I always said this was a give-away of a public resource. These airports do not belong to the airlines. They belong to us. They belong to the people of this country.

So what has happened is that over the years these airlines have been able to lock them up. So we have this slot system. The slot system came in in the late 1960s because the air traffic control system was getting overwhelmed with the number of flights then being handled. So they had a slot system.

Just the reverse is true today. With the modernization of our air traffic control system—with global positioning satellites, GPSs, all of the other things we have, the communications systems, our air traffic control system, and the ongoing modernization of it—we can handle it. We do not need the slots any longer.

However, rather than just dropping them right away, we need to mitigate against the damage that has been caused by the slots. That is why we need to have a phaseout, a two-step phaseout—a phaseout that would both phase out the slots but at the same time include, in that first phase, turboprops that serve smaller cities, new airlines that would start up with small regional jets that would serve

some of the smaller cities that have been cut out of this for the last almost 20 years—well, I guess 14 years now since 1986.

So, again, many airlines have monopolies in markets, especially if they control a hub airport. Local airport authorities at major hub airports do very little to encourage small carriers to use hub airports. It is no surprise that big airlines would rather see gates empty than lease them to competitors. Dominant carriers flood the market with cheap seats to destinations served by small carriers. They maintain the low price until the day the small carrier is gone.

This happened in Des Moines with Vanguard Airlines. We had a new airline that started. What happened? United and American, flying to Chicago, dropped their fares by over half, dropped their fares down to below what Vanguard could do. The travelers were happy, but Vanguard could only afford to do that for so long, and then they went out of business. As soon as they went out of business, what did United and American do? They upped their fares 83 percent. That is what they were doing to stifle competition.

I believe that allowing new entrant carriers, such as Vanguard, Access Air, and others that may be coming along, easier access to O'Hare from cities such as Des Moines, and the Quad Cities—Moline, Rock Island, Bettendorf, and Davenport and others, will be a step in the right direction toward helping economic development and growth and providing for lower airfares for our people.

The amendment of the managers opens up the opportunity for direct service into LaGuardia, important to cities such as Des Moines and Cedar Rapids and the Quad Cities.

Again, the Quad Cities recently lost American Airlines' service to O'Hare because of the slot rule. American Airlines decided to fly their new regional jet between Omaha and O'Hare. Normally, this would not have had an impact on Quad Cities' service to O'Hare, but under the slot rule, Quad Cities lost American Airlines' service entirely. They entirely lost it.

Without the slot limitation, Quad Cities would be a profitable market for American or any other airline. But the area did not make the cut with a limited number of landing rights available under the existing slot rule. Again, economic decisions are not based upon what they can expect to get from a market; it is based upon the slot rule. That is skewing the economic decisions made by airlines and by small community airports.

So again, for our area, for Iowa, for areas west of the Mississippi—I am sure for Wyoming and for West Virginia—we need to change this system, but we need to do it in a way that does not lock in the past anticompetitive activities of the larger airlines.

Right now, Sioux City, IA, does not have service to O'Hare. It is the No. 1 destination of its business travelers. So, again, what is this doing? It hurts economic development and stifles competition in Sioux City.

Again, I urge the Senate to support the managers' amendment. Doing so will lower airfares, it will improve air service to small- and medium-sized cities across the Nation, and it will allow for economic decisions to be based on economics and not upon an outdated, outmoded, anticompetitive slot rule.

I thank the Chair.

#### RECESS

The PRESIDING OFFICER. Under the previous order, the Senate will now stand in recess until the hour of 2:15 p.m.

Thereupon, the Senate, at 12:48 p.m., recessed until 2:16 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. INHOFE).

#### EXECUTIVE SESSION

##### EXECUTIVE CALENDAR

###### NOMINATION OF RONNIE L. WHITE

The PRESIDING OFFICER. Under the previous order, the hour of 2:15 having arrived, the Senate will now go into executive session and proceed to vote on Executive Calendar Nos. 172, 215 and 209 which the clerk will report.

The legislative clerk read the nomination of Ronnie L. White, of Missouri, to be United States District Judge for the Eastern District of Missouri.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I ask unanimous consent that it be in order to ask for the yeas and nays on each nomination with one showing of hands.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. I now ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. HATCH. Mr. President, I rise to address the nomination of Judge Ronnie Lee White, of Missouri, to the United States District Court for the Eastern District of Missouri. We have heard thorough discussions of the nominee by the distinguished Senators from Vermont and from Missouri. In coming to my decision on this nominee, I have considered the fairness of the process under which Judge White has been reviewed, the deference due to the President, and the deference due to the Senators from the nominee's home State. This is a very difficult case.

As chairman of the Judiciary Committee, I have conducted thorough

hearings and reviewed nominees in a fair and even-handed manner. As a result, we have seen a hearings process that does not include personal attacks on nominees and that maintains the institutional integrity of the Senate. On numerous occasions, even when several of my Republican colleagues voted against nominees, I maintained a fair process free from personal attacks on nominees. This was the case with Judge White. The committee held a fair and objective hearing on Judge White and thoroughly reviewed his record.

In considering any nomination, I believe that the President, in whom the Constitution vests the nominations power, is due a large degree of deference. Even though there are a large number of the President's nominees that I would not have nominated had I been President, I have supported these nominees in obtaining a floor vote because in my view, the Constitution requires substantial deference to the President.

Of course, the more controversial a nominee is, the longer it takes to garner the consensus necessary to move such a nominee out of committee. Such is the case with Judge White. I supported Judge White coming to the floor on two occasions. In the last vote in committee, no fewer than six of my Republican colleagues voted against reporting Judge White to the floor. At that point, however, I gave the President the deference of allowing a vote on his nominee and voted to report Judge White.

I must say that I am deeply disappointed by the unjust accusations from some that this body intentionally delays nominees, such as Judge White, based on their race. As the administration is well aware, it is not a nominee's race or gender that slows the process down, but rather the controversial nature of a nominee based on his or her record.

Indeed, nominees such as Charles Wilson, Victor Marrero, and Carlos Murguia, minority nominees, and Marryanne Trump Barry, Marsha Pechman, and Karen Schrier, female nominees, had broad support and moved quickly through the committee and were confirmed easily on the floor. And, although the committee does not keep race and gender statistics, a brief review of the committee's record so far this session shows that a large proportion of the nominees reported to the floor and confirmed consists of minorities and women. I categorically reject the allegation that race or gender, as opposed to substantive controversy, has ever played any role whatsoever in slowing down any nominee during my tenure as chairman.

After a fair and thorough review in committee and after paying the deference to the President to obtain a